

RESOLUTION NUMBER R- 307596

DATE OF FINAL PASSAGE JUL 23 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING TENTATIVE MAP NO. 025169  
FOR SOUTHVIEW PROJECT NO. 2204.

WHEREAS, Southview, LLC, a California Limited Liability Corporation, and Schwerin & ASSOC., Engineer, submitted an application with the City of San Diego for a Tentative Map for the subdivision of a portion of the property into three lots, including a Remainder Parcel to accommodate up to 538 multi-family units.

WHEREAS, the project site is located at the southeast corner of Caliente Avenue and Airway Road on the east of Caliente Avenue, south of Otay Mesa Road and west of Spring Canyon in the AR-1-1 zone of the Otay Mesa Community Plan. The property is legally described as a portion of the SE ¼ of the NE ¼ of Section 31, T18S, R1W, and, a portion of the W'LY ½ of the NW ¼ Section of 32, T18S, R1W, SBBM; and

WHEREAS, the Tentative Map proposes the subdivision of a 42.62 site into three lots consisting of 21.443 acres for up to 538 units of multi-family residential development and a Remaining Parcel of 21.174 acres which will not be developed; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the San Diego Municipal Code (SDMC) of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1351 of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act and the maximum number of residential condominium units is 538; and

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WHEREAS, on May 17, 2012, the Planning Commission of the City of San Diego considered Tentative Map No. 025169, and pursuant to Resolution No. 4804-PC voted to recommend approval of the Tentative Map; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on JUL 23 2012, the City Council of the City of San Diego considered Tentative Map No. 025169, and pursuant to San Diego Municipal Code section 125.0440, and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 025169:

**1. The proposed subdivision and its design or improvements are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Action §§ 66473.5, 66474(a), and 66474(b)).** The Tentative Map would subdivide 21.443 acres of a 42.62-acre site into three lots to support the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is classified on the Tentative Map as a Remainder Parcel. The lot sizes and densities of the proposed lots are as follows: Lot 1: 5.068 acres, 152 units; Lot 2: 7.011 acres, 210 units; and Lot 3: 5.881 acres, 176 units. The site is located on the east side of Caliente Avenue, south of Otay Mesa Road.

The site is currently zoned AR-1-1 and designated for Medium Residential with a density range of 15-30 dwelling units per acre. The proposed project includes a rezone of the site from AR-1-1 to RM-2-6 which would allow 35 dwelling units per acre. The Otay Mesa Community Plan allows a developable range of 269-538 multi-family dwelling units on the

site. The proposed subdivision and rezone would cap the number of dwelling units at 30 dwelling units per acre for a maximum of 538 multi-family dwelling units across the three lots (pursuant to Site Development Permit No. 025170). This is consistent with the land use designation of Medium Residential in the Otay Mesa Community Plan and the General Plan. Therefore, the proposed subdivision and its design or improvement would be consistent with the policies, goals, and objectives of the applicable land use plan.

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code (San Diego Municipal Code § 125.0440(b)).** The Tentative Map would subdivide 21.443 acres of a 42.62-acre site into three lots to support the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is classified on the Tentative Map as a Remainder Parcel and is not included within the boundaries of the Map, nor evaluated as part of this action. The lot sizes and densities of the proposed lots are as follows: Lot 1: 5.068 acres, 152 units; Lot 2: 7.011 acres, 210 units; and Lot 3: 5.881 acres, 176 units. The site is located at the east side of Caliente Avenue, south of Otay Mesa Road. The proposed subdivision would comply with the development regulations of the underlying RM-2-6 zone and all of the applicable development regulations of the Land Development Code. The proposed project is not requesting and does not require any deviations to the development regulations in the Land Development Code. With the adoption of the rezone, which is a condition of the Tentative Map, the proposed project would comply with the applicable zoning and development regulations of the Land Development Code.

**3. The site is physically suitable for the type and density of development (San Diego Municipal Code § 125.0440(c) and Subdivision Map Act §§ 66474(c) and 66474(d)).** The Tentative Map would subdivide 21.443 acres of a 42.62-acre site into three lots to support the future development of a maximum of 538 residential condominium units. The remaining 21.174 acres is classified on the Tentative Map as a Remainder Parcel where no development will occur with this action. The lot sizes and densities of the proposed lots are as follows: Lot 1: 5.068 acres, 152 units; Lot 2: 7.011 acres, 210 units; and Lot 3: 5.881 acres, 176 units. The site is located on the east side of Caliente Avenue, south of Otay Mesa Road.

The site is a relatively flat, undeveloped, irregularly shaped parcel. The property is partially located within the Multiple Habitat Planning Area (MHPA), and contains environmentally sensitive lands in the form of non-native grasslands. Mitigation measures have been incorporated into the project for potential direct impacts to biological resources requiring either off-site acquisition within the MHPA, purchase of credits within the City's Marron Valley Cornerstone Mitigation Bank or through a combination of both options.

Significant public improvements are required for the project. Airway Road, a major thoroughfare in the community, would be extended through the project site terminating at the eastern boundary of Lot 3. Access to all three lots is proposed from driveways along Airway Road and Caliente Avenue. A Traffic Study was prepared for the project which concluded that the project will pay fair share amounts for the construction of a traffic signal at Airway Road and Caliente Avenue and towards the widening of the intersection of Caliente Avenue/Ocean View

Hills Parkway/Otay Mesa Road to provide an additional northbound right turn lane. Additionally, the project is required to construct a traffic signal at the Lot 3 East Driveway/Airway Road intersection. Full frontage improvements, including dedications, are also required along Airway Road and Caliente Avenue. Additionally, the project is required to construct a traffic signal at the Lot 3 East Driveway/Airway Road intersection along with full frontage improvements including dedications, are also required along Airway Road and Caliente Avenue. The project must construct a 12" sewer main in Airway Road east of Caliente and dual 12" water mains in Airway Road.

Implementation of the proposed project requires approximately 3,400 cubic yards of balanced grading (cut and fill). The project required the preparation and analysis of several technical studies including biological and archaeological resources surveys, a sewer study, water quality technical report, traffic study, greenhouse gas emissions report, a noise study and an air quality study. None of these reports identified constraints that would prevent the proposed project from being suitable for development. The proposed future developments would be consistent with the underlying RM-2-6 zone and the policies and densities as recommended in the Otay Mesa Community Plan. Therefore, the site is physically suitable for the type and density of development.

**4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code § 125.0440(d) and Subdivision Map Act § 66474(e)).** The site is located within the Otay Mesa Community Planning area. The three lot subdivision is not located within or adjacent to the Multiple Habitat Planning Area (MHPA). The MHPA is located within the easterly portion of the Remainder Parcel; however, no impacts would occur to the MHPA as a result of this development. The Remainder Parcel is conditioned to prohibit development pursuant to Site Development Permit No. 025170. No regulated wetlands (i.e. basins) would be impacted with project implementation. All identified and/or mapped wetlands within the Remainder Parcel would be avoided. Specifically, a 100-foot buffer is required from the development footprint to the nearest mapped basin containing fairy shrimp. In order to provide additional protection for sensitive resources on the Remainder Parcel, the project must comply with the MHPA Land Use Adjacency Guidelines to reduce indirect impacts to below a level of significance. The subdivision contains environmentally sensitive lands in the form of non-native grasslands. The project has the potential to impact this biological resource requiring mitigation through off-site acquisition or purchase of credits in the City's Marron Valley Cornerstone Mitigation Bank. The surrounding area is developed with a high school to the west, State Route-905 under construction to the north, and vacant, undeveloped land to the south, and not located near the Pacific Ocean or rivers or stream beds.

An Environmental Initial Study (EIS) was conducted for the proposed subdivision in accordance with the California Environmental Quality Act (CEQA). With the proposed mitigations, the project would not have potential adverse significant impacts on the environment. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 66474(f)).** The project proposes to construct 538 multi-family residential units on 21.443 acres of vacant land. This Tentative Map No. 025169, the associated Site Development Permit, and rezone include conditions of approval which would require compliance with the applicable regulations of the San Diego Municipal Code in effect for design of this subdivision and related improvements. Such conditions have been determined by the decision maker as necessary to avoid adverse impacts upon the public health, safety, and welfare. Mitigation measures, where necessary, have been proposed as conditions of this Tentative Map. Therefore, the proposed project will not be detrimental to the public health, safety, and welfare.

**6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (San Diego Municipal Code § 125.0440(f) and Subdivision Map Act § 66474(g)).** The proposed subdivision would improve the existing public rights-of-ways through the proposed extension of Airway Road through the project site, and full build-out improvements of Caliente Avenue connecting to Otay Mesa Road to the north. Both these streets are major thoroughfares in the Otay Mesa Community, providing a critical link for the neighboring residents, and for the future extension of Airway Road through Spring Canyon. The project would maintain general utility easements with project implementation. Therefore, the design of the subdivision and the associated improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (San Diego Municipal Code § 125.0440(g) and Subdivision Map Act § 66473.1).** The development once rezoned to RM-2-6, meets all applicable regulations and policy documents, and the project is consistent with the land use, design guidelines for the RM-2-6 zone. The proposed subdivision of 21.443 acre parcel into three lots for residential development will not impede or inhibit any future passive or natural heating and cooling opportunities. The future concept design of the subdivision has taken into account the best use of the land to minimize grading and preserving environmentally sensitive lands. The Conceptual Architecture Narrative and Design Objectives have been documented in the draft permit and on the Exhibit A for the future construction of the multi-family residential; however, they will be built in accordance with the best practices to allow future passive or natural heating and cooling opportunities. With the independent design of the proposed subdivision each structure will be capable, through building materials, site orientation, architectural treatments, placement and selection of plant materials, of future passive or natural heating and cooling opportunities.

**8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (San Diego Municipal Code § 125.0440(h) and Subdivision Map Act § 66412.3).** The Otay Mesa Community Plan designates the proposed site Medium Residential with a density range of 15-30 dwelling units


per acre which would allow for the development of 269-538 dwelling units on the approximately 17.95 acre site. The proposed rezone to RM-2-6 with a development cap of 30 dwelling units per acre would allow the applicant the ability to develop 538 dwelling units, the maximum number for the density range of Medium Residential. Prior to issuance of the first residential building permit, the subdivider is required to comply with the City's affordable housing regulations by payment of the inclusionary housing in-lieu fee.

The environmental analysis for the project did not identify any significant environmental impacts on public services or the available fiscal and environmental resources which could not be mitigated to a level below significance. The decision maker has reviewed the administrative record including the project plans, technical studies, environmental documentation and public testimony to determine the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources and found that the addition of 538 new residential units would assist the housing needs of the Otay Mesa community. Therefore, the decision maker has considered the effects of the proposed project on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, Tentative Map No. 026170 is hereby granted to Southview, LLC, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Corrine L. Neuffer  
Deputy City Attorney

CLN:als  
07/06/2012  
Or.Dept:DSD  
Doc. No. 397895

CONDITIONS FOR TENTATIVE MAP NO. 025169

SOUTHVIEW - PROJECT NO. 2204

ADOPTED BY RESOLUTION NO. R- 307596 ON JUL 23 2012

**GENERAL**

1. This Tentative Map will be effective upon the adoption of Rezone No. 025168.
2. This Tentative Map will expire on JUL 23 2015.
3. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
4. Prior to the recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
5. The Tentative Map shall conform to the provisions of Site Development Permit No. 025170.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**ENGINEERING**

7. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

8. The drainage system proposed for this subdivision, as shown on the approved tentative map, is private and subject to approval by the City Engineer.
9. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.
10. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
11. Prior to the issuance of any construction permit, the Subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.
12. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
13. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
14. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

## **MAPPING**

- a. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83]. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983." The Tentative Map shall: Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may



be by use of existing Horizontal Control stations or astronomic observations.

- b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

#### **PUBLIC UTILITIES - WASTEWATER**

15. The Subdivider shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
16. Prior to the issuance any construction permit, the Subdivider shall execute a written agreement acceptable to the City, that the Subdivider will perform one of the following three activities (activities 17, 18, or 19) at the subsequent direction of the City to provide for funding and construction of the Otay Mesa Trunk Sewer System. The Subdivider will secure performance of the agreement by providing a performance bond acceptable to the City prior to the issuance of any public improvement permit.
17. Design and construct, either alone or in conjunction with other developers similarly conditioned, the next pending improvement phase of the Otay Mesa Sewer System as identified in the Otay Mesa Sewer Master Plan Revisions dated December 2008. The improvements are those that will provide capacity to serve the development by splitting the current drainage basin.
18. If the Subdivider's cost of the improvement exceeds the fair share attributable to the development, the Subdivider will enter into a written agreement acceptable to the City that provides for reimbursement to the Subdivider for the costs (including interest) in excess of the fair share, as it is collected from future development in the area benefiting from the improvement.
19. The Subdivider will participate in and not object to the formation of a Community Facilities District (CFD) or other mechanism, to fund or reimburse the construction of the improvement phases as identified in the Otay Mesa Master Plan Revisions, dated December 2008.

#### **PUBLIC UTILITIES - WATER**

20. The Subdivider shall design and construct parallel 12-inch public water facilities within Airway Road, from Caliente Avenue to the easterly cul-de-sac, in a manner satisfactory to the Director of Public Utilities. The parallel facilities shall have a minimum separation of 20-feet.

21. The Subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead end main then the Subdivider shall install a redundant water system satisfactory to the Director of Public Utilities.
22. The Subdivider shall design and construct all irrigation systems to utilize reclaimed water in a manner satisfactory to the Director of Public Utilities. If reclaimed water is not yet available, the irrigation systems shall be designed to avoid any cross connections when reclaimed water becomes available.
23. The Subdivider shall design and construct all proposed public water facilities, including services, meters, and easements, in accordance with established criteria in the most current edition of the City San Diego Water Facility Design Guidelines and regulations, standards, and practices pertaining thereto.

### **GEOLOGY**

24. Prior to the issuance of a grading permit, the Subdivider shall submit a geotechnical report prepared in accordance with the City of San Diego's "Guidelines for Geotechnical Reports," satisfactory to the City Engineer.

### **TRANSPORTATION**

25. Prior to recordation of the final map, the Subdivider shall contribute 50 percent of the cost of the installation of a traffic signal at the intersection of the six-lane Caliente Avenue and the four-lane Airway Road, satisfactory to the City Engineer.
26. Prior to recordation of the final map, the Subdivider shall assure by permit and bond the widening of the east side of Caliente Avenue, from the intersection of Airway Road to the southerly project property line, as a 6-lane major roadway with a 24 foot wide raised center median and 59 feet curb-to-centerline tapering to a 16 foot wide raised center median and 50 feet curb to centerline approximately 700 feet south of Airway Road, a 22 foot parkway, new curb, gutter, and a minimum five foot wide non-contiguous sidewalk, satisfactory to the City Engineer. A temporary cul-de-sac turnaround with a minimum 50 foot radius shall be provided at the southerly end of Caliente Avenue.
27. Prior to recordation of the final map, the Subdivider shall assure by permit and bond the widening of the east side of Caliente Avenue, from the intersection of Airway Road to the northerly project property line, as a 6-lane major roadway with any necessary median improvements, 60 feet curb-to-centerline and a 22 foot parkway, new curb, gutter, and a minimum five foot wide non-contiguous sidewalk, satisfactory to the City Engineer.

28. Prior to recordation of the final map, the Subdivider shall assure by permit and bond the full width construction of Airway Road as a 4-lane major roadway from Caliente Avenue to the easterly project property line, satisfactory to the City Engineer. Subdivider shall provide a cul-de-sac at the east end of Airway Road and provide a deferred improvement agreement to install a traffic signal at the intersection of the easterly driveway of Lot 3 and Airway Road when warranted.

**INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within ninety days of the approval of this Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).